



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID DEAN LARGO (1), and JUAN
OBESO (2),

Defendants.

Criminal Case No. 12 cr 1284-MMA
Mag. Docket No. 12 mj 0889

**ORDER FOR VIDEO DEPOSITION AND
RELEASE OF MATERIAL WITNESS
FELIPE BARRERAS-RUIZ**

JUDGE: Hon. Karen S. Crawford
CRTRM: F

DATE: May 8, 2012
TIME: 9:30 a.m.

Upon request of material witness FELIPE BARRERAS-RUIZ (hereinafter "material witness" or the "witness") and his counsel, Gayle Mayfield-Venieris, and good cause appearing:

1. Unless the material witness is previously released from custody of both the U.S. Marshall and the United States Border Patrol, the material witness shall be deposed on June 14, 2012 at 10:00 ~~p.m.~~ a.m. The deposition will take place in the office of the United States Attorney located at 880 Front Street, Fifth Floor, San Diego, California, 92101. An employee of the U.S. Attorney's office shall serve as the video operator.

2. All parties, meaning the United States and the defendants, shall attend the material witness deposition. The United States Marshal's Service shall bring the material witness to the deposition and remain present during the proceedings. If in custody, the

1 defendants shall be brought separately to the deposition and a marshal shall remain present
2 during the proceeding.

3 3. The United States Attorney's Office shall arrange for a federally court-certified
4 interpreter, or otherwise qualified interpreter (28 U.S.C. §1827(c)(2)) to be present for the
5 material witness, if necessary. The cost of the interpreter for the material witness shall be borne
6 by the United States Attorney's Office.

7 4. If the defendants need an interpreter other than the interpreter for the material
8 witness (if any), then defense counsel shall arrange for a federally court-certified interpreter to be
9 present. The cost of a separate interpreter for the defendants shall be paid by the court.

10 5. The United States Attorney's Office shall arrange for a certified court reporter to
11 be present. The court reporter shall stenographically record the testimony, serve as a notary and
12 preside at the deposition in accordance with Rule 28(a) of the Federal Rules of Civil Procedure.
13 The cost of the court reporter shall be borne by the United States Attorney's Office.

14 6. The deposition shall be recorded by video recordation.

15 7. The operator shall select and supply all equipment required to video record and
16 audio record the deposition and shall determine all matters of staging and technique, such as
17 number and placement of cameras and microphones, lighting, camera angle, and background.
18 The operator shall determine these matters in a manner that accurately reproduces the appearance
19 of the witness and assures clear reproduction of each witness' testimony and the statements of
20 counsel. The witness, or any party to the action, may object on the record to the manner in
21 which the operator handles any of these matters. Any objections shall be considered by the
22 Court in ruling on the admissibility of the video and/or audio record. All such objections shall be
23 deemed waived unless made promptly after the objector knows, or has reasonable grounds to
24 know, of the basis of such objections.

25 8. The deposition shall be recorded in a fair, impartial, objective manner. The video
26 equipment shall be focused on the witness; however, the operator may, when necessary or
27 appropriate, focus upon charts, photographs, exhibits, or like material being shown to the witness
28 during the deposition.

1 9. Before examination of the witness begins, the Assistant U.S. Attorney shall state
2 on the record his/her name; the date, time, and place of the deposition; the name of the witness;
3 the identity of the parties and the names of all person present in the deposition room. The court
4 reporter shall then swear the witness on the video record. Prior to any counsel beginning an
5 examination of the witness, that counsel shall identify himself/herself and his/her respective
6 client on the record. If more than one video recording is used, the Assistant U.S. Attorney shall
7 repeat the information required at the beginning of this paragraph.

8 10. Once the deposition begins, the operator shall not stop the video recorder until the
9 deposition concludes, except that any party or the witness may request a brief recess, which
10 request will be honored unless another party objects and specifies a good faith basis for the
11 objection on the record. Each time the record is stopped, the operator shall state on the record
12 the time the recording stopped and the time it resumed. If the deposition requires the use of
13 more than one tape, the operator shall sequentially identify on the record the end and beginning
14 of each tape.

15 11. Testimonial evidence objected to shall be recorded as if the objection had been
16 overruled. The Court shall rule on the objections prior to admitting that portion of the
17 deposition. The party raising the objection(s) shall be responsible for preparing a transcript for
18 the Court to consider. All objections shall be deemed waived unless made during the deposition.

19 12. If requested by a party, the deposition testimony, if offered other than for
20 impeachment, may be presented in non-stenographic audio/visual format, in which case no
21 transcript need be prepared in advance of trial, unless otherwise ordered by the Court. See Fed.
22 R. Civ. P. 32(c).

23 13. Copies of all exhibits utilized during the video recorded deposition shall be
24 marked for identification during the deposition and filed along with the video record.

25 14. At the conclusion of each deposition, the Government and defendants will advise
26 the material witness' attorney 1) if they waive entirely the requirement that the material witness
27 review and sign a transcript of the deposition under oath before release; or 2) if they agree the
28 material witness may review the video recording of the deposition and make changes or attest to

1 there being no changes in a writing signed under oath in lieu of reviewing and signing under oath
2 a transcript pursuant to Fed.R.Crim.P. 15(a)(2); or 3) if there is no such agreement to modify the
3 transcript reviewing requirement of Fed.R.Crim.P. 15(a)(2).

4 15. At the conclusion of each deposition, the Government and defendants will also
5 advise the material witness' attorney if they intend to object to the release of the material
6 witness. If there is no objection, the Government and defense attorneys will immediately
7 approve an order for the material witness' release from custody, which order shall be conditioned
8 on the material witness reviewing and signing under oath a transcript of the deposition, unless
9 the parties have reached another agreement. Prior to release from custody, the attorney for the
10 Government shall serve the material witness with a subpoena for the trial date and a travel fund
11 advance letter, and written authorization to enter the United States to testify at trial.

12 16. If any party objects to the release of the material witness from custody, the
13 objecting party must request in writing a hearing on the issue before the federal judge who is
14 assigned to the case or to such other district judge or magistrate judge as they designate within
15 four business hours after the deposition is concluded. At the hearing, the objecting party must be
16 prepared to show why the release of the material witness is not appropriate under 18 U.S.C. §
17 3144. If, after the hearing, the Court orders the release of the material witness, the material
18 witness' attorney shall immediately present the release order to the Court for signature and filing,
19 which order shall be conditioned on the material witness reviewing and signing under oath a
20 transcript of the deposition, unless the parties have reached another agreement. Before the
21 release of the material witness from custody, the Government shall serve the material witness
22 with a subpoena for the trial date and a travel fund advance letter, and written authorization to
23 legally enter the United States to testify at trial.

24 17. The operator shall provide a copy of the video recorded deposition to any party
25 who requests a copy at that party's expense. After preparing the requested copies, if any, the
26 operator shall deliver the original video recording to the notary along with a certificate signed by
27 the operator attesting that the video record is an accurate and complete record of the video
28 recorded deposition.


HON. KAREN S. CRAWFORD
UNITED STATES MAGISTRATE JUDGE